

## **REMARKS**

Applicants respectfully request consideration of the subject application as amended herein. This Amendment is submitted in response to the Final Office Action mailed May 31, 2005. In this Amendment, claims 1, 4, 5, 7, 10, 11, 13, 16, 17, 19, 22 and 23 have been amended.

Applicants reserve all rights with respect to the applicability of the doctrine of equivalents.

### **Claim Objections**

The Examiner has objected to claims 1, 4, 7, 10, 11, 13, 16, 17, 19, 22 and 23 due to informalities. Applicants have amended claims 1, 4, 7, 10, 11, 13, 16, 17, 19, 22 and 23 to correct the informalities. Applicants respectfully submit that the claims are now in condition for allowance, and request allowance of said claims.

### **Claim Rejections under 35 U.S.C. § 112, second paragraph**

The Examiner has rejected claims 1-6 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

Applicants have amended independent claim 1, and respectfully submits that the amended independent claim 1 and associated dependent claims 2-6 comply with § 112, second paragraph, and therefore request withdrawal of this rejection.

### **Rejections under 35 U.S.C. § 102(e)**

The Examiner has rejected claims 1-2, 4, 6-8, 10-11, 13-14, 16-20 and 22-23 under 35

U.S.C. §102(e) as being anticipated by Chapman, et al., (USPN 6,304,552 B1, hereinafter "Chapman"). As discussed below, the pending claims are patentable over Chapman.

Chapman discloses two different classes of traffic traveling through a data communications network:

For a given logical egress port, C1 traffic is always able to use up the reserved amount of allocated bandwidth if it has traffic to send; however, this class is never allowed to use more than the reserved amount even if there is bandwidth available. Similarly, for a given logical egress port, C2 traffic is always able to use up the reserved amount of bandwidth if it has traffic to send; however, if it has more traffic to send it can compete equally with other permitted classes for any available bandwidth, up to a certain maximum amount. (Col. 5, lines 36-42).

Chapman further discloses:

Based on the comparison between the accounting value and the bandwidth settings, a priority setting is established for the queue associated with the logical pathway between ports A and K, either HI or LO. If the accounting result is less than its minimum bandwidth, in this example 3 Mb/s, the queue's priority will be HI. If the accounting result shows that the queue's traffic flow has reached its minimum bandwidth, the queue's priority will be LO, until the flow reaches its maximum bandwidth, also 3 Mb/s as this is C1 traffic, at which point the controller 308 will stop sending requests to the transport fabric for releasing IP data packets from this particular queue. (Col. 9, lines 27-40).

Chapman further discloses:

At step 506, the program element transfers the IP data packet to its corresponding queue by consulting a mapping table held in memory. The block diagram of this mechanism is shown in FIG. 6. The portion of the program element (functional block 600) responsible to effect the IP data packet identification reads a table 602 that maps variables traffic class, input port and output port, to a particular queue. Each particular class of traffic going to a particular output port requires its own queue. (Col. 10, line 64 to Col. 11, line 5) (emphasis added).

### Claims 1, 2, 4, 6

Applicants respectfully submit that Chapman does not disclose each and every limitation of independent claim 1. Amended claim 1 recites:

A method comprising:

receiving data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having an associated guaranteed percentage of transmission bandwidth;

marking a portion of the data segments of each class of service based on the associated guaranteed percentage of the transmission bandwidth of the class of service, such that if data transmitted from a class of service exceeds the associated guaranteed percentage of the transmission bandwidth of the class of service, then the number of data segments marked corresponds to the associated guaranteed percentage of the transmission of the class of service, and if data transmitted from a class of service is less than the associated guaranteed percentage of the transmission bandwidth, then all the data segments of the class of service are marked; and

preferentially transmitting the marked data segments from each class of service.

(Amended Claim 1, emphasis added).

In contrast, Chapman merely discloses using a table stored in memory to map traffic class, an input port and an output port to a particular queue having a HI or LO priority. Using a table stored in memory to map traffic to a queue is not equivalent to “marking a portion of the data segments of each class of service,” as claimed.

Therefore, independent claim 1 and associated dependent claims 2, 4 and 6 are not anticipated by Chapman.

#### Claims 7, 8, 10-11

Applicants respectfully submit that Chapman does not disclose each and every limitation of independent claim 7. Amended claim 7 recites:

An apparatus comprising:

means for receiving data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having a guaranteed percentage of transmission bandwidth;

means for marking a portion of the data segments of each class of service based on the guaranteed percentage of bandwidth of the class of service, such that if data transmitted from a class of service exceeds the guaranteed percentage of transmission bandwidth of the class of service, then the number of data segments marked corresponds to the guaranteed percentage of transmission bandwidth of the class of service, and if data transmitted from a class of service is less than the guaranteed percentage of transmission bandwidth of the class of service, then all the data segments of the class are marked; and

means for preferentially transmitting the marked data segments from each

class of service.

(Amended Claim 7, emphasis added).

As discussed Chapman does not teach or suggest “marking a portion of the data segments of each class of service,” as claimed. Therefore, independent claim 7 and associated dependent claims 8, 10-11 are not anticipated by Chapman.

Claims 13, 14, 16-18

Applicants respectfully submit that Chapman does not disclose each and every limitation of independent claim 13. Amended claim 13 recites:

A machine-readable medium that provides executable instructions, which when executed by a processor, cause said processor to perform a method, the method comprising:

receiving data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having a guaranteed percentage of transmission bandwidth;

marking a portion of the data segments of each class of service based on the guaranteed percentage of bandwidth of the class of service, such that if data transmitted from a class of service exceeds the guaranteed percentage of transmission bandwidth of the class of service, then the number of data segments marked corresponds to the guaranteed percentage of transmission bandwidth of the class of service, and if data transmitted from a class of service is less than the guaranteed percentage of transmission bandwidth of the class of service, then all the data segments of the class are marked; and

preferentially transmitting the marked data segments from each class of service.

(Amended Claim 13, emphasis added).

As discussed Chapman does not teach or suggest “marking a portion of the data segments of each class of service,” as claimed. Therefore, independent claim 13 and associated dependent claims 14, 16-18 are not anticipated by Chapman.

Claims 19, 20, 21, 33

Applicants respectfully submit that Chapman does not disclose each and every

limitation of independent claim 19. Amended claim 19 recites:

An apparatus comprising:

a receiving device to receive data segments of at least one class of service at each of a plurality of ingress line cards, each class of service having a guaranteed percentage of transmission bandwidth;

a marking device to mark a portion of the data segments of each class of service based on the guaranteed percentage of bandwidth of the class of service, such that if data transmitted from a class of service exceeds the guaranteed percentage of transmission bandwidth of the class of service, then the number of data segments marked corresponds to the guaranteed percentage of transmission bandwidth of the class of service, and if data transmitted from a class of service is less than the guaranteed percentage of transmission bandwidth of the class of service, then all the data segments of the class are marked; and

a transmitting device to preferentially transmit the marked data segments from each class of service.

(Amended Claim 19, emphasis added).

As discussed Chapman does not teach or suggest “marking a portion of the data segments of each class of service,” as claimed. Therefore, independent claim 19 and associated dependent claims 20, 21, 23 are not anticipated by Chapman.

#### **Rejections under 35 U.S.C. § 103(a)**

The Examiner has rejected claims 3, 5, 9, 12, 15, 21, and 24 under 35 U.S.C. §103(a) as being obvious over Chapman in view of alleged knowledge of the art.

Because the single reference does not teach the invention as claimed in independent claims 1, 7, 13, and 19, applicants assume the Examiner is taking Official Notice of the missing elements. Applicants respectfully object to such Official Notice and requests the Examiner cite references in support of his/her position.

As discussed above, with regards to independent claims 1, 7, 13, and 19, Chapman does not disclose “marking a portion of the data segments of each class of service.” The alleged knowledge in the art does not supply the missing element.

Accordingly, applicants respectfully submit that applicant's invention as claimed in claims 3, 5, 9, 12, 15, 21, and 24 is not rendered obvious by Chapman in view of alleged knowledge of the art, and respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a).

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Lester Vincent at (408) 720-8300.

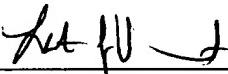
**Deposit Account Authorization**

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then applicants hereby request such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR  
& ZAFMAN LLP

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Lester J. Vincent  
Attorney for Applicant  
Registration No. 31,460

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, CA 90025-1026  
(408) 720-8300